

This checklist was developed for use by examiners as part of policy and forms review

Checklist for Group Whole Life Fixed Insurance Products

Insurer _____

NAIC# _____

Name of Product _____

Contact Person, Title _____

Address _____

Telephone _____ Fax _____

Date received _____ Reviewed by _____

SRB # _____

Notes:

Contents of Actuarial Memorandum

- ___ Each submission must be accompanied by an actuarial memorandum prepared and signed by an actuary that includes the following:
 - ___ A description of the product;
 - ___ The mathematical formulas, sample numerical calculations and a detailed statement of the method used to compute policy or contract values and reserves and insurance nonforfeiture benefits;
 - ___ A statement that each form's nonforfeiture values are not less than those required by Massachusetts law OR
 - ___ A statement that no nonforfeiture values are required by Massachusetts law, and a detailed demonstration on how net premiums and/or values meet the exclusionary requirement of M.G.L. c. 175, § 144. *SRB Bulletin 90-02*
 - ___ Identification of risk classes covered under the policy and how rates and values are affected. *SRB Bulletin 90-02*
- ___ Any additional data, tables, and information necessary for a comprehensive review of the forms. *SRB Bulletin 90-02*

Definition of a group

In order to be a group life policy, the group must meet one of the following definitions: (*Note: the citation for all of the following section describing eligible groups is M.G.L. c. 175, § 133*)

- ☐ (a) an employer group that meets the following criteria:
 - ☐ not less than ten employees at date of issue,
 - ☐ with or without medical examination,
 - ☐ written under a policy issued to the employer, or to the trustees of a fund established by the employer,
 - ☐ the premium on which is to be paid by the policyholder, either wholly from the employer's funds or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees,
 - ☐ insuring only all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment, or by duration of service in which case no employee can be excluded if he has been employed for one year or more, or for such period longer than one year as may be required by any pension plan under or in connection with which the policy is taken out,
 - ☐ for amounts of insurance based upon some plan precluding individual selection,
 - ☐ for the benefit of persons other than the employer,
- ☐ when part of the premium is to be derived from funds contributed by the insured employees and the benefits of the policy are offered to all eligible employees, not less than seventy-five percent of such employees may be so insured, or not less than forty percent if each employee belonging to the insured group has been medically examined and found acceptable for ordinary insurance by an individual policy;
 - ☐ *Note: The word "employees" may include the officers, managers and employees of subsidiary or affiliated corporations and the individual proprietors, partners and employees of affiliated individuals and firms, if the business of the employer and of such subsidiary or affiliated corporations, firms or individuals is under common control, through stock ownership, contract or otherwise. M.G.L. c. 175, § 134*

OR

- ☐ (b) the members of any trade union or other association of wage workers described in section 29 ("whose principal objects are to deal with the relations between employers and employees relative to wages, hours of labor and other conditions of employment"), that meet the following criteria:
 - ☐ with or without medical examination,
 - ☐ written under a policy issued to the union or association,
 - ☐ the premium on which is to be paid by the union or association or jointly by the union or association and the members,
 - ☐ insuring all of the members of the union or association, or all of any class or classes determined by conditions pertaining to their employment, or to membership in the union or association, or to both,
 - ☐ for amounts of insurance based upon some plan which will preclude individual selection,
 - ☐ for the benefit of persons other than the union or association or any officers thereof,

- ___ when the premium is to be paid by the union or association and its members jointly and the benefits of the policy are offered to all eligible members, not less than seventy-five percent of such members may be so insured,
- ___ any member or members insured under the policy may apply for amounts of insurance additional to those granted by said policy, in which case any percentage of the members may be insured for additional amounts if they pass satisfactory medical examinations

OR

- ___ (c) a group of persons who at any time are debtors of a bank, association, financial or other institution, including its subsidiary or affiliated institutions, if any, for a loan, or of the vendor of any property for its purchase price, or who are co-debtors or guarantors of said obligation, under an agreement to pay said obligation, or who at any time have been granted a policy loan pursuant to a policy provision therefor, that meet the following criteria
- ___ written under a policy issued, with or without requirement of evidence of individual insurability, to said bank, association, financial or other institution or vendor, or to a parent holding company, or to the trustee, trustees or agent designated by one or more said banks, associations, financial or other institutions or vendors, or to the insurance company granting said policy loan,
- ___ made payable to said creditor or to the assignee of said obligation, or to said insurance company granting said policy loan, including the insurance company which issues said policy,
- ___ insuring the life of each debtor, co-debtor, guarantor or the person granted said policy loan,
- ___ for an amount, with respect to each said obligation or policy loan, not exceeding his individual obligation exclusive of unearned finance charges, or policy loan with interest, and not exceeding \$125,000;
- ___ where joint life insurance is afforded, not more than two persons may be insured in connection with any one credit transaction;
- ___ no such debtor may be insured in such a group for a period of more than fifteen years on account of a debt arising out of said loan or policy loan or obligation for said purchase price,
- ___ the \$125,000 amount limitation and fifteen year period limitation contained in this clause does not apply to insurance for which no identifiable charge is made to the debtor, co-debtor or guarantor;

But note that insurance or educational credit transaction commitments may be written under the above for the amount of such commitment that has not been advanced by the creditor; provided, that the amount of such insurance shall not exceed ten thousand dollars with respect to each student.

OR

- ___ (d) the members of any association of state, county or municipal employees, who are regularly and permanently employed by the commonwealth, a county or a municipality and, if employed by the commonwealth or the city of Boston, are paid by a common paymaster (any officer or employee of the commonwealth or the city of Boston or any board, department, or commission, whose duties include the payment of salaries or wages to employees of the commonwealth, city or any board, department or commission) and are eligible for membership in the retirement association for the

employees of the commonwealth or of the city of Boston, or the members of any association of employees of two or more municipalities within one county who are regularly and permanently employed by one or more such municipalities, that meet the following criteria:

- ___ with or without medical examinations,
- ___ written under a policy issued to the association, the premium on which is to be paid by its members,
- ___ insuring not less than fifty members at date of issue and seventy-five percent of all persons eligible for membership therein,
- ___ for amounts of insurance based upon some plan which will preclude individual selection,
- ___ for the benefit of persons other than the association or any officers thereof,
- ___ any member or members insured under such policy may apply for amounts of insurance additional to those granted by said policy, in which case any percentage of the members may be insured for additional amounts if they pass satisfactory medical examinations;
- ___ no person may be eligible for coverage under such a policy as a member of more than one such association.

OR

- ___ (e) all the employees of two or more employers in the same industry, or the members of one or more trade unions or associations of wage workers described in section twenty-nine, (“whose principal objects are to deal with the relations between employers and employees relative to wages, hours of labor and other conditions of employment”) or the employees of one or more employers in the same industry and the members of one or more such trade unions or such associations, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union or unions or association or associations, or to both, that meet the following criteria:
 - ___ with or without medical examination,
 - ___ written under a policy issued to the trustees of a fund established by two or more employers in the same industry or by one or more such trade unions or such associations, or by one or more employers and one or more such trade unions or associations, which trustees shall be deemed to be the policyholder,
 - ___ the premium on which is to be paid by the trustees, either wholly from funds contributed by the employer or employers of the insured persons, or by the union or association or unions or associations, or by both, or partly from such funds contributed by the employer or employers of the insured persons, or by the union or association or unions or associations, or by both, and partly from such funds contributed by the insured persons specifically for their insurance, or, with respect to a policy issued to the trustees of a fund established by one or more employers and one or more such trade unions or associations, partly from such funds contributed by the employers, unions or associations, or both, and partly from funds contributed by the insured persons specifically for their insurance,
 - ___ for amounts of insurance based upon some plan precluding individual selection either by the insured persons or by the policyholder, or employers, or union or unions or association or associations,
 - ___ for the benefit of persons other than the employer or employers, or the union or unions or association or associations or any officers thereof,
 - ___ when part of the premium is to be contributed by the insured persons specifically for their insurance and the benefits of the policy are offered to all eligible persons, not less than

seventy-five percent of such eligible employees of the employer or employers or of such eligible members of the union or unions or association or associations, who remit funds for premium payments to the trustees may be so insured;

___ the policy must, at date of its issue, cover at least one hundred persons;

OR

___ (f) the members in good standing, or all of any class or classes thereof determined by conditions pertaining to membership, of any charitable or religious association which meets the requirements of chapter one hundred and eighty and which has been in existence for at least one year and not formed for the exclusive purpose of procuring insurance, that meet the following criteria

___ written under a policy issued to the association,

___ the premium on which is to be paid by the association or the insured members, or by both jointly,

___ for amounts of insurance based upon some plan precluding individual selection,

___ for the benefit of the association or of persons named by the insured members for the purpose of carrying out the duly stated objectives of the association;

___ when part of the premium is to be contributed by the insured persons specifically for their insurance and the benefits of the policy are offered to all eligible persons, not less than seventy-five percent of such eligible members may be so insured;

___ the policy must, at date of its issue, cover at least one hundred persons.

Note:

___ Any group life insurance policy issued under the provisions of this section, except a policy insuring the lives of debtors in accordance with clause (c) may also insure the dependents of employees or members or other persons insured thereunder, and the employees or members or other persons may contribute part or all of the premium for such insurance.

___ Any policy issued to any of the above groups may provide that the term "employee" shall include retired employees, and the partners or individual proprietors if an employer is a partnership or an individual proprietor, if such partners or proprietors are actively engaged in and devote a substantial part of their time to the conduct of the business of the proprietor or partnership, and if, in the case of a policy issued under subdivision (e) of section one hundred and thirty-three, the policy insures not less than an average of five persons, other than the partners or individual proprietors, per employer unit; provided, however, that so much of this paragraph as provides that a policy issued under said subdivision (e) of said section one hundred and thirty-three insure not less than an average of five persons, exclusive of partners or individual proprietors, per employer unit shall not be applicable in the case of any policy so issued covering employees of persons engaged in the business of conducting recreational or instructional summer camps for children. *M.G.L. c. 175, § 134*

Note regarding definitions:

___ The word "employer" shall include the trustees of a fund established as provided in clause (a) of section one hundred and thirty-three, a trade union or association of wage workers, a financial or other institution including subsidiary or affiliated institutions, a vendor of any property, as assignee of the indebtedness, an association of state, county or municipal employees, and the trustees of a fund established as provided in clause (e) of section one

hundred and thirty-three, in the case of a policy issued under clause (a), (b), (c), (d) or (e), respectively, of section one hundred and thirty-three, and a charitable or religious association which meets the requirements of chapter one hundred and eighty. *M.G.L. c. 175, § 134*

- The word "employee," shall include a member of such a trade union or other association of wage workers or of such an association of state, county or municipal employees or of a charitable or religious association which meets the requirements of chapter one hundred and eighty, and, as used in this section, shall include a borrower from such a financial or other institution including subsidiary or affiliated institutions, and a purchaser from such a vendor. *M.G.L. c. 175, § 134*

General Requirements

- ___ Each submission must include a certification by a company official that each form meets the objective standards of M.G.L. c. 175 §2B. If an insurer feels that a form is exempt from chapter 175 §2B, the basis for the contention must be stated in the cover letter. The term "text" includes all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, captions and subcaptions, and schedule pages and tables. *M.G.L. c. 175 §2B*
 - ___ The text achieves a minimum Flesch score of 50. The Flesch score for each form must be stated in the certification: a statement to the effect that the score exceeds 50 is not permitted.
 - ___ The other objective standards of Chapter 175 §2B, section 1 are met:
 - ___ It is printed, except for tables, in not less than ten point type, one point leaded.
 - ___ The style, arrangement and overall appearance of the policy give no undue prominence to any portion of the text of the policy and any endorsements or riders;
 - ___ It contains a table of contents or an alphabetical subject index;
 - ___ The width of margins and ink to paper contrast do not unreasonably interfere with the readability of the form; and
 - ___ The organization of the content of the policy and the summary of the policy is conducive to understandability of the form.
- Note: All provisions of law relative to the filing of policy forms shall also apply to all applications designed to be attached to such policy forms and when so attached to constitute a part of the contract. *M.G.L. c. 175 § 192***
- Note: Section 2B does not apply to policies which are issued in connection with any employee benefit plan which is either subject to Title I of the Employee Retirement Income Security Act of 1974, 29 United States Code, sections 1002 to 1144, inclusive, or described in 26 United States Code, sections 79, 105, 125, 401, 403(a) or 409A of the Internal Revenue Code.**
- ___ All policies must be headed by the corporate name of the company. If two or more insurers are under a common management and represent themselves to be or are customarily known as an insurance company group or similar insurance trade designation, they may, with the approval of the commissioner, head or title policies with the name of the group or similar trade designation or with the names of the individual members of the group, provided that the company assuming the insurance is specifically identified. *M.G.L. c. 175, §18*
- ___ All policies must be signed by the company's secretary or an assistant secretary, or in their absence by a temporary secretary, and by its president or a vice-president, or in their absence by two directors. Riders or endorsements may be signed by one of the aforesaid officers of the company. (**Note: does not apply to riders or endorsements providing special benefits under M.G.L. c. 175, § 24.**) A facsimile of the required signature is acceptable. *M.G.L. c. 175, §33*

___ Policy of life insurance must contain on the first page in bold letters a plain description of the policy, "so fully defining its character, including dividend periods and other peculiarities, that he holder thereof shall not be likely to mistake the nature or scope of the contract." *M.G.L. c. 175, §129*

___ The commissioner may require a company to submit for her inspection copies of any policy form used by the company, which includes any rider, endorsement or application used with the policy, and copies of any circular or other advertising matter used in the commonwealth. *M.G.L. c. 175, §191*

___ There must be a "free look" period of at least 10 days. *M.G.L. c. 175, §187H, M.G.L. c. 176D*

___ Any policy that contains a reference to the application, either as a part of the policy or as having any bearing thereon, must include the application for review, for the application is a part of the policy. *M.G.L. c. 175, §§ 131 and 192*

Is this a flexible premium universal life product?

___ yes ___ no

If yes,

___ The Division would consider a carrier to be in compliance with M.G.L. c. 176D if the term "planned premium" is used to describe the concept of flexible premiums. The use of the terms "required premium" or "expected premium" or "scheduled premium" will be considered a violation of M.G.L. c. 176D.

___ The Schedule Page must display the date of maturity that results if the policyholder pays the planned premium and if the following are all assumed: minimum interest rate, the maximum cost of insurance rates, and the maximum expenses. *M.G.L. c. 176D*

Compliance with M.G.L. c. 175, § 118:

___ Must state the amount of benefits payable, the manner of payment and the consideration;

___ Benefits cannot be contingent upon assessments upon survivors

Note: extra compensation may be charged by a company to the insured for engaging in naval or military service in time of war.

Group Life Mandatory Provisions

The policy **must** contain all of the following provisions, in terms more favorable to the employee, or at least as favorable to the employee and more favorable to the employer:

- ☐ That the policy will be incontestable after two years from its date of issue except for non-payment of premiums. *M.G.L. c. 175, § 134, 1.*
- ☐ That the insurance on any person insured under the policy will be incontestable after it has been in force for a period of two years during such person's lifetime except for violation of the conditions of the policy relating to military or naval service in time of war. *M.G.L. c. 175, § 134, 1.*
- ☐ That the policy, the application of the employer and the individual applications, if any, of the employees insured shall constitute the entire contract between the parties, and that no statement made by the employer or any employee or on their behalf shall be used in defense to a claim under the policy unless contained in a written application. *M.G.L. c. 175, § 134, 2.*
- ☐ That the premium or the amount of insurance payable in the event of a misstatement of the age of an employee will be equitably adjusted. *M.G.L. c. 175, § 134, 3.*
- ☐ That to the group or class thereof originally insured shall be added from time to time all new employees of the employer eligible to insurance in such group or class. *M.G.L. c. 175, § 134, 5.*
- ☐ That the employer is entitled to a grace period of thirty-one days for the payment of any premium due except the first, during which grace period the death benefit coverage shall continue in force, unless the employer shall have given the company written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy and, at the option of the company, a provision that the employer shall be liable to the company for the payment of a pro rata premium for the time the policy was in force during such grace period. *M.G.L. c. 175, § 134, 6.*

Is the group described in clause (c) or (f) of § 133 (credit life or a charitable organization)?

☐ yes ☐ no

If yes, the next two items do **not** apply:

- ☐ That the company will issue to the employer, for delivery to each employee whose life is insured under the policy, an individual certificate specifying his insurance coverage under the policy, the amount thereof and to whom payable, together with a provision to the effect that if his insurance, or any portion of it, ceases because of (1) termination of employment or of membership in the class or classes eligible for coverage under the policy, or (2) termination of the policy or amendment of the policy to terminate the insurance or any part thereof on the class of insured persons to which he then belongs after he has been insured thereunder for five or more years immediately preceding any such termination date, the employee shall continue to be insured thereafter for a period of thirty-one days, for the amount of life insurance which he is entitled to have issued to him under an individual policy in accordance with the provisions which follow; and that he shall be entitled to have issued to him by the company, without evidence of insurability, upon written application in a form satisfactory to the company and upon the payment of the premium applicable to the class of risk to which he belongs and to the form and amount of the policy at his then attained age, both within said period of thirty-one days, an individual policy of life insurance without disability or other supplementary benefits,

effective at the expiration of said period, in any one of the forms of life policies then customarily issued by the company, except a term policy, for an amount not in excess of the amount of the insurance which ceases because of any such termination, or, at the option of the company, in the case of any termination described in clause (2), an amount which shall in no event exceed the lesser of (i) the amount of such employee's insurance ceasing because of such a termination less any amount of life insurance for which he may be or may become eligible under any group policy issued by the same or another company within thirty-one days after such a termination and (ii) two thousand dollars; provided, that any amount of insurance which shall have matured on or before the date of any termination described in clause (1) or (2), as an endowment payable to him, whether in one sum or in installments or in the form of an annuity, shall not, for the purposes of this provision, be included in the amount which is considered to cease because of any such termination; and, for the purposes of this provision, the date of termination of the policy in case of its expiration by its own terms shall be the effective date of such expiration irrespective of any grace period specified in the policy for the payment of any premium falling due on such date. *M.G.L. c. 175, § 134, 4.*

— **But note:** Notwithstanding this requirement, only one certificate need be issued for delivery to an insured person if a statement concerning any dependents' coverage is included in such certificate. *M.G.L. c. 175, §133*

— Upon termination of the insurance with respect to the spouse of any employee by reason of the employee's termination of employment or death, the spouse insured pursuant to this section shall have the same conversion rights as to the insurance on his or her life as is provided for the employee. *M.G.L. c. 175, §133*

— That any sum becoming due by reason of the death of the employee insured shall be payable to the beneficiary designated by the employee insured, that in the event no designated beneficiary as to all or any part of such sum is living at the death of the employee insured, any such sum shall be paid to the executors or administrators of the employee, and, that the company may, at its option, pay such sum to any one or more of the following surviving relatives: wife, husband, mother, father, child or children, brothers or sisters, and may pay a part of such sum not exceeding two hundred and fifty dollars to any person appearing to the company to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the employee insured. *M.G.L. c. 175, § 134, 7.*

— In the case of a policy issued to a creditor to insure debtors of such creditor, a provision that the insurer will furnish to the policyholder for delivery to each debtor insured under the policy a form which will contain a statement that the life of the debtor is insured under the policy or in the case of a policy issued to an insurance company to insure persons granted policy loans, a provision that the policyholder will deliver to each person insured under the policy a form which will contain a statement that the life of the person granted the loan is insured, and that any death benefit paid thereunder by reason of his death shall be applied to reduce or extinguish the indebtedness or policy loan. *M.G.L. c. 175, § 134, 4A.*

— That if any individual insured under a group policy becomes entitled to convert to another type of life insurance within a specified time after the happening of an event, the certificate holder will be notified of the privilege and its duration within 15 days of the event. *M.G.L. c. 175, § 134A*

- ___ If the notice is given more than 15 days but less than 90 days after the event, the time allowed for the exercise of the conversion privilege will be extended for 15 days after the giving of the notice. *M.G.L. c. 175, § 134A*
- ___ If the notice is not given within 90 days of the event, the time allowed for the exercise of the conversion privilege will expire at the end of 90 days. *M.G.L. c. 175, § 134A*
- ___ A provision that states that any equity of the insured in a group life insurance policy at the time of default in the payment of a premium, whether that equity exists by reason of the terms of the policy or by law, will be applied to purchase extended or paid-up insurance for each of the insured at attained age on the basis of the mortality table and rate of interest used in computing the premium for the group. *M.G.L. c. 175, § 136*
- ___ The policy may contain a provision that permits a person whose life is insured under a group policy to assign any or all incidents of ownership including but not limited to any right to designate a beneficiary, to convert to an individual policy or to pay premiums. *M.G.L. c. 175, § 134C*

Prohibitions

General Prohibitions

Prohibitions under M.G.L. c. 175, § 22: No policy of insurance or annuity may contain any condition, stipulation or agreement:

- ___ Depriving the courts of the commonwealth of jurisdiction of actions against it;
- ___ Limiting the time for commencing actions against it to a period of less than two years from the time when the cause of action accrues;
- ___ Making any person appointed and licensed as its agent the agent of the applicant, insured, policyholder or contract holder for any purpose;
- ___ Providing that no person shall be deemed an agent of the company unless authorized by the company in writing;
- ___ Providing that any policy or contract made in the commonwealth on lives, property or interests therein shall be governed by the laws of any other state or country.

- ___ Policies may not include a requirement that all disputes or controversies be resolved by binding arbitration. But note that any provision that says the parties *may* agree to mediation or arbitration is permissible. The prohibition is based on the requirement that applicants waive their legal rights, or the rights of beneficiaries, set forth in M.G.L. c. 93A, § 9.

- ___ Policies may not include a limitation or exclusion on the recovery of punitive damages in the event of a dispute or controversy. *Such a limitation would be inconsistent with rights granted under M.G.L. c. 93A.*

- ___ Policies that include a provision that grants the right of the company to require an autopsy must provide flexibility that recognizes the religious practices or beliefs of the policyholder or beneficiary. *M.G.L. c. 176D*

Anti-discrimination provisions

- ___ No company shall refuse to issue a policy or limit the coverage normally contained therein with respect to the risk of loss solely because of the sex of the insured. *M.G.L. c. 175, § 24A*
- ___ No life company shall make or permit any distinction or discrimination in favor of individuals between insureds of the same class and equal expectation of life in the amount or payment of premiums or rates charged for policies of life or endowment insurance, or annuity or pure endowment contracts, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes. *M.G.L. c. 175, § 120*
- ___ No insurer shall cancel, refuse to issue or renew, charge any excessive rates or restrict any length of coverage or in any way practice discrimination against persons primarily because the insured person has had a suspected, alleged or confirmed exposure to the potential hazards and afflictions of DES. This includes practices and devices which are fair in form but discriminatory in practice. *M.G.L. c. 175, § 120C*
- ___ There may be no distinction or discrimination in the amount or payment of premiums or rates charged, in the length of coverage, or in any other of the terms and conditions of a policy of

life insurance based on information that the person covered has been the victim of domestic abuse. *M.G.L. c. 175, § 120D*

— No company may discriminate against persons of color in rates or benefits. *M.G.L. c. 175, § 122*

Optional Provisions

Optional conversion, alteration, or exchange of policies or contracts:

The following provisions may in substance be included (*i.e.* the policy does not have to have these provision; however, if included, they must be substantially similar to the following):

- ☐ Any life company may, at the request of the holder, exchange, alter or convert any policy of life or endowment insurance, or annuity issued by it, or a company that is admitted and authorized under chapter 175 and is an affiliate of it, as defined in section 206, hereinafter called the original policy, for or into any policy of life or endowment insurance, hereinafter called the rewritten policy, as of the date of the most recently issued original policy or as of the current date, or as of any intermediate date, conforming with the laws in force as of the date of issue which the rewritten policy bears; provided, that:
- ☐ if the rewritten policy bears a date prior to the date of application for exchange, alteration or conversion, the amount of insurance under the rewritten policy may not exceed the greater of (a) the amount of insurance under the original policy or policies if of life or endowment insurance, or (b) the amount of insurance which the premium paid for the original policy or policies would have purchased if the rewritten policy had been originally issued as of the date of issue it bears. Nothing in section 120 shall be construed to prohibit the exchange, alteration or conversion of a policy of life or endowment insurance or annuity under this section, and sections 123 and 130 shall not apply to a rewritten policy issued under the authority of this section. Nothing in section 131 or section 132 shall be construed to prohibit making the application for the original policy, if one of life or endowment insurance, or the application for the rewritten policy issued under authority of this section, or both such applications, a part of the rewritten policy, by endorsing thereon or attaching thereto a copy of either or both such applications. Nothing in said section one hundred and thirty-two shall be construed to prohibit the incorporation, by a rider or endorsement or otherwise, in a rewritten policy issued under authority of this section and bearing a then current date or an intermediate date of a stipulation making the incontestable provision required by said section 132 operative from the date of issue of the most recently issued original policy, if one of life or endowment insurance. *M.G.L. c. 175, § 139*

Participating policies

- ☐ Is this a participating policy?
- ☐ yes ☐ no
- ☐ If yes, the policy must provide that the proportion of the divisible surplus of the company contributed by said policy shall be ascertained and distributed annually, and not otherwise, except as hereinafter provided, beginning not later than the end of the third policy year; but such distribution shall not be made contingent upon the payment of any further premium except that if dividends are allowed on an anniversary of the policy preceding the third, such dividends may be made subject to the payment of the succeeding year's premium. Every such company shall on December thirty-first of each year or as soon thereafter as practicable, after providing from the funds attributable to its participating business for the reserve required by sections nine and eleven and all other liabilities attributable to such business, including dividends declared upon the capital

stock, if any, and such sums as may be held on account of existing deferred dividend policies, and providing also for a contingency reserve not in excess of the limit prescribed in the following section, apportion its remaining funds attributable to such business upon the contribution to surplus plan, as dividends, to all other policies entitled to share therein.

- ___ Each such dividend shall annually, at the option of the holder of the policy,
 - ___ (a) be payable in cash, or
 - ___ (b) applied in reduction of premiums, or
 - ___ (c) to the purchase of a paid-up addition, or
 - ___ (d) be left with the company to accumulate to the credit of the policy and be payable at the maturity thereof, or be withdrawable in cash on demand by the holder of the policy, or applied as herein after set forth;
- ___ But if no election is made by the holder of the policy prior to any anniversary thereof, the dividend for that anniversary shall be applied under option (c) or held under option (d), whichever option is designated by the terms of the policy; and if any premium on the policy is not paid at the expiration of the days of grace and dividends have been applied under option (c) or held under option (d), the company may keep the policy in force by applying the cash value of any paid-up additions or any dividend accumulations to the payment due on the policy if the cash value of such additions or the amount of such accumulations is sufficient to make said payment in full, and shall forthwith mail a notice to the holder thereof at his last known address, stating the amount of such cash values or of such accumulations which have been so applied, and the amount, if any, of paid-up additions and the cash value thereof remaining or, in the case of dividend accumulations the balance, if any, remaining to the credit of the policy; notwithstanding anything herein provided, the share of the surplus so apportioned to a term policy shall not be available for the purchase of a paid-up addition, and nothing herein contained shall operate to continue a policy in force beyond the period which the cash value of any paid-up addition or any dividend accumulation so applied would carry the policy under its full premium rate, nor beyond the term for which the policy was originally issued, and that the affidavit of any officer, clerk or agent of the company, or of any one authorized to mail such notice, that the notice required by this section has been duly mailed by the company, shall be prima facie evidence that such notice was duly given. *M.G.L. c. 175, §140*

Note: The above does not apply to contracts on a variable basis, pure endowment contracts nor to any domestic stock life company issuing only nonparticipating policies. A foreign life company which does not provide in every participating policy hereafter issued or delivered in the commonwealth that the proportion of the surplus accruing upon said policy shall be ascertained and distributed annually and not otherwise, except as hereinafter provided, either by payment in cash of the amount apportioned to a policy, or by its application to the payment of premiums or to the purchase of paid-up additions, or for the accumulation of the amounts from time to time apportioned, said accumulations to be subject to withdrawal by the policyholder, shall not be permitted to do new business within the commonwealth. *M.G.L. c. 175, §140*

Nothing in the above (*M.G.L. c. 175, §140*) shall be construed to prohibit the payment upon or after the death of the insured of a dividend for the current policy year.

Policy loan interest rates

___ Does the policy provide for policy loans?

___ yes ___ no

If yes, then the following section applies:

Note: This section does not apply to term policies nor to those in force as extended term insurance nor to industrial life insurance policies nor to life insurance policies or contracts which are contracts on a variable basis. *M.G.L. c. 175, §142(13)*

___ For the purpose of this section, "Published monthly average" shall mean: (a) the monthly average of the composite yield on seasoned corporate bonds as published by Moody's Investors Service, Inc. or any successor thereto; or (b), in the event that the monthly average of the composite yield on seasoned corporate bonds is no longer published, a substantially similar average, established by regulations promulgated by the commissioner. *M.G.L. c. 175, §142(1)*

___ If the term is used in the policy, the policy definition must be the same as the above or substantially similar.

For purposes of this section:

___ The rate of interest on policy loans permitted under this section includes the interest rate charged on reinstatement of policy loans for the period during and after any lapse of policy. *M.G.L. c. 175, §142(11)(a)*

___ The term "policy loan" includes any premium loan made under a policy to pay one or more premiums that were not paid to the life insurer as they fell due. *M.G.L. c. 175, §142(11)(b)*

___ The term "policyholder" includes the owner of the policy or the person designated to pay premiums as shown on the records of the life insurer. *M.G.L. c. 175, §142(11)(c)*

___ The term "policy" includes certificates issued by a fraternal benefit society and annuity contracts which provide for policy loans. *M.G.L. c. 175, §142(11)(d)*

___ For any policy of life insurance issued or delivered in the commonwealth by any life company, the policy must contain a provision:

___ that states that after premiums have been paid for at least three full years, the holder thereof, upon written application therefor to the company at its home office and upon an assignment of the policy to the company, in a form satisfactory to it, shall be entitled to a loan from the company of a sum not exceeding its loan value, on the sole security of the policy. *M.G.L. c. 175, §142(2)*

___ permitting (a), an interest rate on such loan of not more than eight percent per annum; or (b) a provision permitting an adjustable maximum interest rate on such loan established from time to time by the insurer. *M.G.L. c. 175, §142(3)*

___ If the provision for a loan is made under clause (b) above:

___ the rate of interest charged on a policy loan shall not exceed the higher of either:

(a) the published monthly average for the calendar month ending two months before the date on which the rate is determined; or (b) the rate used to compute the

- cash surrender values under the policy during the applicable period plus one percent per annum. *M.G.L. c. 175, §142(4)*
 - ___ the policy must contain a provision setting forth the frequency at which the rate is to be determined for such policy. *M.G.L. c. 175, §142(5)*
- ___ The maximum rate for each policy must be determined at regular intervals at least once every twelve months, but not more frequently than once in any three month period. At the intervals specified in the policy, the rate being charged: (a), may be increased whenever such increase as determined under c. 175, §142(4) would increase the rate by one-half percent or more per annum; and (b), must be reduced whenever such reduction as determined under c. 175§ 142(4) would decrease that rate by one-half percent or more per annum. *M.G.L. c. 175, §142(6)*
- ___ The policy must state that the life insurer shall:
 - ___ notify the policyholder at the time a cash loan is made of the initial rate of interest on the loan;
 - ___ notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so after making the initial loan; provided, however, that notice need not be given to the policyholder when a further premium loan is added, except as provided in clause (c);
 - ___ send to policyholders with loans reasonable advance notice of any increase in the rate; and
 - ___ include in the notices required in clauses (a), (b) and (c) the substance of the pertinent provisions of c. 175 §142(3) and (5). *M.G.L. c. 175, §142(7)*
- ___ The policy must state that the loan value will be an amount which, together with interest as aforesaid to the end of the current policy year, shall equal the cash surrender value available at the end of the said policy year under the policy, including the cash surrender value of any existing paid-up additions thereto, if the policy is then free from indebtedness. The company shall deduct from such loan value any existing indebtedness, including accrued interest thereon, and may also deduct any unpaid portion of the premium for the then current policy year. Failure to repay any loan under the policy or to pay interest thereon shall not avoid the policy until the total indebtedness, including accrued interest thereon, is equal to or exceeds the loan value, nor until thirty days after notice has been mailed by the company to the last known address of the holder. The affidavit of any officer, clerk or agent of the company or of any one authorized to mail such notice, that the notice required by this section has been duly mailed by the company, shall be prima facie evidence that such notice was duly given. Nothing in this section shall require any company to make a loan upon any policy for less than twenty-five dollars. *M.G.L. c. 175, §142(8)*
- ___ The policy must state that the life insurer will not terminate a policy in a policy year as the sole result of a change in the interest rate during such policy year, and the life insurer shall maintain coverage during such policy year until the time at which it would otherwise have terminated if there had been no change during such policy year. *M.G.L. c. 175, §142(9)*

Equity Index

Is this policy going to contain any Equity Indexed benefits? If yes, please answer provide the following information:

Note that all of the following requirements apply in addition to those for the underlying product.

Note: the citation for all of the items listed below is Bulletin 98-17

- ___ The filing must include a description of the investment plan used to fund the policy, if not addressed in the actuarial memorandum.
- ___ The filing must set forth an example of the annual statement provided to policyholders.
- ___ The filing must include a certification by a duly authorized officer of the company that (1) the company will provide the State Rating Bureau any additional information relative to reserves that the Division may request at a later date; and (2) that any changes in investment strategies relative to the filing will be filed with the Division on an ongoing basis.

Application

- ___ The policy application must include a prominent acknowledgment disclosing that the applicant understands that he/she is applying for an equity indexed product.
 - ___ This disclosure statement must be set forth (in at least 10 point type) immediately preceding the signature line.
 - ___ The acknowledgment statement must also disclose that while the values of the policy may be affected by an external index, the policy does not directly participate in any stock or equity investments.
 - ___ It must include a statement of understanding that any values shown, other than guaranteed minimum values, are not guarantees, promises or warranties.

Cover Page

- ___ The cover page must contain a prominent notice accurately describing the contract's involvement with an external index. The notice should disclose that while values of the policy may be affected by an external index, the policy does not directly participate in any stock or equity investments.

Disclosure Requirements

All policy forms must include the following provisions:

- ___ A description of the death benefit provided by the policy and how the death of the policyholder affects the cash value and excess interest accumulation in the policy.
- ___ A disclosure of all available indexed periods and the date of expiration of the elected period.
 - ___ The contract form must clarify what happens upon expiration of an indexed period.

- ___ If a policy is to be linked to an index for some specified period less than the time to the maturity date of the policy, then the expiration date of such period and any minimum guaranteed rates applied thereafter must be specified.
- ___ A description of the formula used to determine indexed credits and indexed value.
- ___ Provide for and describe the use of a substitute index in the event that the named index is discontinued. The policy must:
 - ___ describe the means by which the policyholder will be notified of the substitute index.
 - ___ inform the policyholder that advance notification of a change in the index will be provided to the Division.
 - ___ state that the insurer will provide an endorsement that was filed with the Division naming the substitute index.
- ___ If premiums may be allocated to different accounts applicable to different portions of the policy value, then the policy must contain a description of the allocation of interest credits.
- ___ Disclose the minimum guaranteed rates that apply until the maturity date of the policy.
- ___ A description of the policy's value upon surrender during an indexed term, at the end of the term, or at any time prior to maturity.
- ___ A disclosure of the guaranteed participation rate at issue and during the first indexed period. If the participation rate may be redetermined at any time during an indexed period or at the end of an indexed period, the policy must clearly disclose the minimum participation rate for all periods and the factors which would lead to a change in any participation rate.
- ___ If the policy contains a cap or floor for the indexed benefits, then the policy must clearly disclose any guaranteed cap or floor at issue and during the first indexed period. If the cap or floor may be redetermined during an indexed period or at the end of the guaranteed period, the policy must clearly describe the minimum cap or floor relative to the indexed benefits.
- ___ A disclosure that states that in the event of insolvency of the issuing insurer, policyholders look to the guaranty fund system in which the policyholder resides and cautions policyholders to contact said in-state guaranty fund system for more information about the nature, existence and degree of coverage.

Prohibitions

Policies may **not** do the following:

- ___ Use investment terms such as investment performance, investment returns, maximizing returns, Wall Street or the stock market except with extreme care and with appropriate caveats.
- ___ Describe the equity indexing feature or formula as a means of participation in the stock market, the equity markets or the S & P 500 or other index, although indexing may be appropriately described as providing the potential for higher excess interest rates over the long term.
- ___ Provide a partial or complete list of the stocks or companies that constitute the index.
- ___ Stress similarities to variable products, mutual funds or other investment vehicles.

Advertising Materials

- ___ The filing must include all advertising materials, including any illustrations used in marketing the contract form.
- ___ Language in marketing materials must be balanced and must disclose:

- ___ that the policy does not directly participate in any stock or equity investments;
- ___ that failure to maintain the policy to maturity may result in no participation in the equity index;
- ___ the participation rate and its relation to the equity index, including an invitation to contract, the excess interest formula, any caps or floors on excess interest, surrender and other charges and the guaranteed minimum rate of interest payable;
- ___ the death benefit provided by the policy and how the death of the policyholder affects cash value and excess interest accumulation in the policy.

Contents of the Actuarial Memorandum

These requirements are in addition to those for the underlying product.

Note: the citation for all of the items listed below is Bulletin 98-17

The Actuarial Memorandum, prepared and signed by a qualified actuary, must contain the following:

- ___ 1. A description of the policy.
- ___ 2. A description of the index used and the criteria for selecting a substitute index if the current index is no longer in existence or applicable.
- ___ 3. A description of how index-based benefits are calculated, including formula definitions, descriptions of calculations of level, up and down index scenarios, and descriptions of the minimum cap and floor for all indexed products.
- ___ 4. A description of reserving methods.
- ___ 5. A description of asset adequacy testing methodologies used to address product features unique to the equity indexed product.
- ___ 6. A statement by a qualified actuary that the reserve method should produce reserves that meet the minimum statutory requirements.
- ___ 7. If the policy contains a provision allowing insureds to withdraw funds without a surrender charge, the actuarial memorandum should demonstrate that proposed reserves are at least equal to the accumulation value rather than the surrender value.

The filing must include a statement of the hedging policy, which must clearly disclose and include the following matters:

- ___ 1. A description of hedging instruments, if any, that are planned to be acquired to fund the obligations inherent in the policy.
- ___ 2. A description of the methods used to determine the amount and type (including maturity and strike price) of hedging instruments, if any, used to hedge the risks associated with the indexed obligations.
- ___ 3. A description of the methods used to determine the extent of rebalancing of the portfolio supporting the product and the frequency of rebalancing.
- ___ 4. A description of the responsibilities within the company with regard to the individual(s) who determine(s) the hedging policy, approve the hedging policy and carry out the hedging policy.
- ___ 5. A description of risk-handling associated with purchasing such hedging instruments, including liquidity, credit, market, pricing, legal and operational risks associated thereto.
- ___ 6. Detailed support for any required reserve certifications relative to "reasonableness of assumptions".
- ___ 7. If the reserving method is based on attaining any "hedged as required" criteria, a description of how such criteria will be met.

No-Lapse Guarantee

Does the product provide for a No-Lapse Guarantee? If yes, please provide the following information:

Note that all of the following requirements are in addition to those for the underlying product.

The citation for all of the following is Bulletin 00-02.

Definitions:

- ___ If the policy uses the term “no-lapse” or “no-lapse guarantee” the definition must be substantially similar to the following: The guarantee that a flexible premium universal life insurance policy or a flexible premium variable life insurance policy will remain in force as long as a designated premium is paid and regardless of the magnitude of the accumulated account value.

Policy Forms

At a minimum, all policy forms **must** comply with the following requirements:

- ___ The existence of and extent of the no-lapse period(s) must be made explicit on the data pages and in the policy provisions.
- ___ The Premium and/or Grace Period provision(s) must carefully and in a straightforward manner explain the criteria for maintaining the no-lapse feature.
 - ___ The policyholder, accordingly, must be clearly informed, in the policy form, of those actions prior to the end of the no-lapse period that would cause the no-lapse protection to be damaged.
- ___ If there are nonforfeiture values attributable to the no-lapse provision, they must be explicitly provided in:
 - ___ explanatory text **and**
 - ___ numerical values.
- ___ For policies with no-lapse provisions that do not extend for the life of the contract, clear disclosures, sufficient to inform the policyholder of the financial consequences to the policyholder of the cessation of the no-lapse period, must be provided:
 - ___ If a deficit in the account value needs to be made up upon termination of the no-lapse period, that fact must be clearly described.
 - ___ It must be disclosed that the termination of the no-lapse period may bring with it the necessity of maintaining the contract with premium amounts significantly higher than the premiums required to satisfy the no-lapse guarantee.
- ___ Regardless of the duration(s) of the no-lapse period(s), the financial consequences to the policyholder of paying only the premium required to satisfy the no-lapse guarantee must be disclosed.
 - ___ In particular, such a disclosure must point out the fact that the policyholder may be foregoing the advantage of building up a significant account value.

Advertising Materials

- ___ Filings must include all advertising materials, including any illustrations used in marketing the contract form. Language in marketing materials must disclose:
 - ___ the duration of any no-lapse guarantees,
 - ___ the actions that would cause the no-lapse feature to be damaged,
 - ___ the financial effect on the policyholder of the termination of the no-lapse guarantee period,
 - ___ the nonforfeiture benefits, if any, attributable to the no-lapse guarantee, and
 - ___ the financial consequences to the policyholder of paying only the premium required to satisfy the no-lapse guarantee.

Contents of the Actuarial Memorandum

Note: These requirements are in addition to those for the underlying product.

The actuarial memorandum, prepared and signed by a qualified actuary, must contain the following:

- ___ A description of the no-lapse guarantee.
- ___ An explanation and sample calculation of the reserving for the no-lapse guarantee.
 - ___ An explanation and sample calculation of any nonforfeiture benefits attributed to the no-lapse guarantee.
 - ___ A demonstration that the no-lapse provision is self-supporting. The self-support test described in the NAIC Life Insurance Illustrations Model Regulation and the Actuarial Standard of Practice No. 24 shall be one acceptable method for demonstrating self-support. *Bulletin 00-02*

